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12 BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE

13 DIVISION OF MEDICAL QUALITY

14 STATE OF CALIFORNIA

15 In the Matter of the Accusation )  
16 Against )

No. D-2153

17 LAMAR D. DESMUKE, M.D. )  
18 485 Cheney Avenue, #1 )  
19 Oakland, California )  
20 Certificate No. A-21533 )

ORDER ADOPTING  
STIPULATION REGARDING  
DECISION

21 Respondent.

22 The attached Stipulation Regarding Decision is accepted  
23 and adopted by the Division of Medical Quality of the Board of  
24 Medical Quality Assurance, State of California, and shall consti-  
25 tute the Decision and Order of the Board in this above-captioned  
26 matter.

27 The Decision and Order shall become effective on  
28 July 28, 1978.

IT IS SO ORDERED ON July 28, 1978.

Division of Medical Quality  
Board of Medical Quality Assurance  
State of California

By

*Michael J. Carella*  
MICHAEL J. CARELLA  
Secretary-Treasurer

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13 BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE

14 DIVISION OF MEDICAL QUALITY

15 STATE OF CALIFORNIA

16 In the Matter of the Accusation )  
17 Against )

No. D-2153

18 LAMAR D. DESMUKE, M.D. )  
19 485 Cheney Avenue, #1 )  
20 Oakland, California )  
21 Certificate No. A-21533 )

STIPULATION REGARDING  
DECISION

22 Respondent.  
23  
24

25 IT IS HEREBY STIPULATED by and between Lamar D. Desmuke,  
26 M.D. (hereinafter "respondent"), with the advice and consent of  
27 his attorney Frank D. Winston, and his psychiatrist, Robert  
Knight, M.D., and the Division of Medical Quality of the Board of  
Medical Quality Assurance, State of California (hereinafter the  
"Division" or "Board"), by and through its attorney, Evelle J.  
Younger, Attorney General of the State of California, by  
Kenneth Freeman, Deputy Attorney General, as follows:

1. Respondent and his attorney have been served  
with, and have read, the Accusation which is presently on file  
and pending in Case No. D-2153 before the Division.

1           2. Respondent understands that the nature of the  
2 charges alleged in said Accusation constitute the basis for  
3 this disciplinary proceeding against his certificate to act as  
4 a physician and surgeon in the State of California.

5           3. Robert Rowland is the Executive Director of  
6 the Board and made the charges and allegations set forth in  
7 said Accusation in his official capacity and not otherwise.

8           4. That on or about May 25, 1965, respondent was  
9 issued by the Board, physician and surgeon certificate number  
10 A-21533. Said certificate was in full force and effect at all  
11 times mentioned herein.

12           5. Respondent admits the truth of each and every  
13 allegation set forth in paragraphs 3, 4 and 5 of said Accusation.

14           6. Respondent admits the truth of each and very  
15           6 and 6(a) - 6(c) and 6(e) - 6(g)  
16 allegation set forth in paragraphs/ of said Accusation. Respon-  
17 dent further admits that said conduct as so admitted is  
18 unprofessional conduct in violation of section 2399.5 of the  
19 Business and Professions Code; and constitutes grounds for  
20 disciplinary action against him pursuant to section 2361  
21 of said Code.

22           7. Respondent admits the truth of each and every  
23 allegation set forth in paragraph 8 of said Accusation.  
24 Respondent further admits that said conduct as so admitted is  
25 unprofessional conduct in violation of sections 2361(b), 2361(c)  
26 and 2361(d) of the Business and Professions Code, and each of  
27 them; and thereby constitutes grounds for disciplinary action  
against him pursuant to section 2361 of said Code.

1           8. Respondent admits the truth of each and every  
2 allegation set forth in paragraph 12 of said Accusation.  
3 Respondent further admits that said conduct as so admitted is  
4 unprofessional conduct in violation of sections 2361(b) and  
5 2361(d) of the Business and Professions Code, and each of them;  
6 and thereby constitutes grounds for disciplinary action against  
7 him pursuant to section 2361 of said Code.

8           9. Respondent admits the truth of each and every  
9 allegation set forth in paragraph 15 of said Accusation.  
10 Respondent further admits that said conduct as so admitted is  
11 unprofessional conduct in violation of section 2392 of the  
12 Business and Professions Code; and thereby constitutes grounds  
13 for disciplinary action against him pursuant to section  
14 2361 of said Code.

15           10. That in mitigation of the conduct and violations  
16 admitted by respondent herein, it is submitted that his actions  
17 were not carried out for his personal pecuniary gain. Rather,  
18 his mental condition at the time of this conduct was such that  
19 he allowed himself to be manipulated by others without exercising  
20 his own professional judgment. At the time of this conduct  
21 respondent did not recognize that these practices were an improper  
22 exercise of his professional responsibility.

23           11. That based upon the foregoing recitals and  
24 stipulations, IT IS HEREBY FURTHER STIPULATED AND AGREED that  
25 the Division may adopt this Stipulation, issue a Decision, and  
26 thereby impose a disciplinary order against respondent's  
27 certificate No. A-21533 as follows:

1                   A. Respondent's Physician and Surgeon Certificate  
2 No. A-21533 is hereby revoked.

3                   12. RESPONDENT ACKNOWLEDGES that he is fully aware of  
4 his right to a hearing on the charges and allegations set forth  
5 in said Accusation; his right to cross-examine witnesses; his  
6 right to present evidence in his own behalf both in defense and  
7 in mitigation of said charges; and his right to reconsideration,  
8 appeal, and any and all other rights which may be accorded him  
9 pursuant to the California Administrative Procedure Act.  
10 Respondent hereby fully and voluntarily waives said rights  
11 (except those rights pertaining to reinstatement as accorded  
12 him pursuant to Government Code section 11522 and Business and  
13 Professions Code section 2376.5) with regard to the Accusation  
14 on file in this proceeding numbered D-2153.

15                   13. Because of the questions surrounding respondent's  
16 mental condition as alluded to in paragraph 10 above, and as  
17 has been alleged in proceeding number P-12 before the Division,  
18 IT IS HEREBY FURTHER STIPULATED, AGREED, AND ACKNOWLEDGED AS  
19 FOLLOWS: Respondent Desmuke has been under the continued  
20 professional care and treatment of psychiatrist Robert Knight,  
21 M.D., since in or about March of 1978. Respondent has continued  
22 under Dr. Knight's care during the pendency of this proceeding  
23 number D-2153, and is presently under his care and treatment.  
24 The nature of these proceedings have been discussed between  
25 respondent and Dr. Knight, as well as with respondent's attorney.  
26 //  
27 //

1 Although respondent suffers from mental illness, and requires  
2 treatment by Dr. Knight, respondent, at present, is not ill to an  
3 extent that he is unable to understand the nature of this  
4 proceeding, or to understand the nature and the extent of the  
5 disciplinary order to which he is stipulating and agreeing. By  
6 executing this Stipulation below, Dr. Knight represents that  
7 in his professional opinion, respondent Desmuke's mental  
8 condition is such at the present time that respondent is  
9 mentally competent to understand the nature of these proceedings,

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1 to understand that he is voluntarily agreeing to a revocation of  
2 his physician and surgeon certificate No. A-21533, and to under-  
3 stand that he is voluntarily waiving those rights set forth in  
4 paragraph 12 above.

5 Furthermore, this matter has been discussed between  
6 respondent and his attorney, who has advised him as to the nature  
7 of this proceeding, the rights that are being waived by entering  
8 into this Stipulation, and the extent of the disciplinary order  
9 that will be imposed. In entering into this Stipulation, respon-  
10 dent does so voluntarily and with the advice and consent of his  
11 attorney.

12  
13 DATED: 6-21-78

Lamar D. Desmoke, M.D.  
LAMAR D. DESMOKE, M.D.  
Respondent

14  
15 DATED: 6-21-78

Frank D. Winston  
FRANK D. WINSTON  
Attorney for Respondent

16  
17 DATED: 6/21/78

Robert Knight, M.D.  
ROBERT KNIGHT, M.D.  
Respondent's Psychiatrist

18  
19 DATED: 6-21-78

EVELLE J. YOUNGER  
Attorney General

Kenneth Freeman  
KENNETH FREEMAN  
Deputy Attorney General

Attorneys for Board of Medical  
Assurance

State of California

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6 San Francisco, CA 94102  
7 Tel: (415) 557-2881  
8  
9 Attorneys for Petitioner  
10

REDACTED

11 BEFORE THE BOARD OF MEDICAL QUALITY ASSURANCE  
12 DIVISION OF MEDICAL QUALITY  
13 STATE OF CALIFORNIA  
14  
15

16 In the Matter of the Accusation  
17 Against

NO. D-2153

ACCUSATION

18 LAMAR D. DESMUKE, M.D.  
19 485 Cheney Avenue, #1  
20 Oakland, California  
21 Certificate No. A-21533

22 Respondent.  
23  
24  
25  
26  
27

28 ROBERT ROWLAND, complainant, charges and alleges as  
29 follows:

30 1. He is the Executive Director of the Board of Medical  
31 Quality Assurance, State of California (hereinafter the "Board"),  
32 and makes these charges and allegations in his official capacity  
33 and not otherwise.

34 2. At all times material herein, respondent Lamar D.  
35 Desmuke, M.D., has held physician and surgeon's certificate No.  
36 A-21533 issued by the Board. Said certificate was issued on  
37 May 25, 1965, and is in good standing at the present time.



3. Ritalin is a trade name for the generic substance methylphenidate hydrochloride, which substance is a controlled substance as set forth in Schedule II, section 11055(d)(4) of the Health and Safety Code, and a dangerous drug as set forth in section 4211(k) of the Business and Professions Code.

4. Seconal is a trade name for the generic substance secobarbital, which substance is a controlled substance as set forth in Schedule III, section 11056(b)(1) of the Health and Safety Code, and a dangerous drug as set forth in sections 4211(a) and 4211(k) of the Business and Professions Code.

5. Emperin Compound #4 is a trade name for the generic substance APC with codeine 1 gr., which substance is a controlled substance as set forth in Schedule III, section 11056(d)(2) of the Health and Safety Code, and a dangerous drug as set forth in section 4211(k) of the Business and Professions Code.

FOR A FIRST CAUSE FOR DISCIPLINARY ACTION

6. On or about the dates listed below, respondent did prescribe a controlled substance and/or dangerous drug as listed below to the individuals listed below, without first conducting a good faith examination and without medical indication therefor:

(a) February 10, 1977 Sharyn D. [REDACTED] 90 Ritalin, 20 mg.  
30 Seconal, 100 mg.

(b) May 6, 1977 Nancy S. [REDACTED] 60 Ritalin, 20 mg.  
30 Seconal, 100 mg.  
30 Emperin  
Compound #4

(c) May 20, 1977 Sharyn D. [REDACTED] 60 Ritalin, 20 mg.  
30 Seconal, 100 mg.  
30 Emperin  
Compound #4

1 (d) June 23, 1977 Judith M. [REDACTED] 60 Ritalin, 20 mg.  
2 30 Seconal, 100 mg.  
3 (e) July 7, 1977 Nancy S. [REDACTED] 60 Ritalin, 20 mg.  
4 30 Seconal, 100 mg.  
5 (f) July 25, 1977 Sharyn D. [REDACTED] 60 Ritalin, 20 mg.  
6 (g) August 30, 1977 Sharyn D. [REDACTED] 60 Ritalin, 20 mg.

7 7. The conduct of respondent as alleged above in  
8 paragraph 6, and 6(a) through 6(g), inclusive, is unprofessional  
9 conduct in violation of section 2399.5 of the Business and  
10 Professions Code, and thereby constitutes grounds for disciplinary  
11 action against respondent pursuant to section 2361 of the  
12 Business and Professions Code.

13 FOR A SECOND CAUSE FOR DISCIPLINARY ACTION

14 8. From in or about March of 1977 to in or about March  
15 of 1978, respondent treated individuals for the alleged condition  
16 of alcoholism and/or narcolepsy associated with alcoholism by  
17 prescribing the controlled substance and/or dangerous drug  
18 Ritalin 20 mg. For the period from in or about December 6,  
19 1977, to in or about March 9, 1977, respondent wrote, at least,  
20 2622 prescriptions for 60 tablets of Ritalin, 20 mg. This  
21 constitutes an approximate total of, at least, 157,320 dosage  
22 units of Ritalin, 20 mg. dispensed during said period of time  
23 pursuant to respondent's prescriptions.

24 9. The conduct of respondent as alleged above in  
25 paragraph 8 is unprofessional conduct in violation of section  
26 2361(b) of the Business and Professions Code (gross negligence),  
27 in that it constitutes an extreme departure from the standards

1 of medical practice; and thereby constitutes grounds for dis-  
2 ciplinary action against respondent pursuant to section 2361  
3 of the Business and Professions Code.

4 FOR A THIRD CAUSE FOR DISCIPLINARY ACTION

5 10. The conduct of respondent as alleged above in  
6 paragraph 8 is unprofessional conduct in violation of section  
7 2361(c) of the Business and Professions Code, in that it con-  
8 stitutes repeated similar negligent acts; and thereby constitutes  
9 grounds for disciplinary action against respondent pursuant to  
10 section 2361 of the Business and Professions Code.

11 FOR A FOURTH CAUSE FOR DISCIPLINARY ACTION

12 11. The conduct of respondent as alleged above in  
13 paragraph 8 is unprofessional conduct in violation of section  
14 2361(d) of the Business and Professions Code (incompetence), in  
15 that it evidences a lack of ability or knowledge in discharging  
16 professional medical obligations; and thereby constitutes grounds  
17 for disciplinary action against respondent pursuant to section  
18 2361 of the Business and Professions Code.

19 FOR A FIFTH CAUSE FOR DISCIPLINARY ACTION

20 12. Each and every allegation set forth in paragraphs  
21 6 and 8 are incorporated herein by reference as though set  
22 forth at length. Furthermore, in prescribing Ritalin and other  
23 controlled substances/dangerous drugs, respondent would issue  
24 prescriptions by merely filling in the name and address of the  
25 patient on previously prepared stacks of prescription forms, and  
26 would allow non-physicians to dictate and determine the specific  
27 drug and quantity to be prescribed to the patient.

1 13. The conduct of respondent as alleged above in  
2 paragraph 12 is unprofessional conduct in violation of section  
3 2361(b) of the Business and Professions Code (gross negligence),  
4 in that it constitutes an extreme departure from the standards  
5 of medical practice; and thereby constitutes grounds for discip-  
6 linary action against respondent pursuant to section 2361 of the  
7 Business and Professions Code.

8 FOR A SIXTH CAUSE FOR DISCIPLINARY ACTION

9 14. The conduct of respondent as alleged above in  
10 paragraph 12 is unprofessional conduct in violation of section  
11 2361(d) of the Business and Professions Code (incompetence), in  
12 that it evidences a lack of ability or knowledge in discharging  
13 professional medical obligations; and thereby constitutes grounds  
14 for disciplinary action against respondent pursuant to section  
15 2361 of the Business and Professions Code.

16 FOR A SEVENTH CAUSE FOR DISCIPLINARY ACTION

17 15. From in or about March of 1977 to in or about  
18 September of 1977, respondent did aid and abet unlicensed personnel  
19 in practicing a system or mode of treating the sick or afflicted  
20 by having non-licensed personnel (whose names are known to  
21 respondent but unknown to complainant) perform physical exami-  
22 nations on patients.

23 16. The conduct of respondent as alleged above in  
24 paragraph 15 is unprofessional conduct in violation of section  
25 2392 of the Business and Professions Code, and thereby constitutes

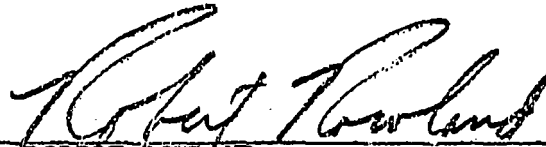
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1 grounds for disciplinary action against respondent pursuant to  
2 section 2361 of the Business and Professions Code.

3 WHEREFORE, complainant prays that a hearing be held,  
4 and that thereafter respondent's certificate be revoked or  
5 suspended as to each separate and distinct cause alleged herein.

6 DATED: April 7, 1978

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10 ROBERT ROWLAND  
11 Executive Director  
12 Board of Medical Quality  
13 Assurance  
14 State of California  
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27 Complainant

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